




It is well-established that a court “may not generally modify a term of imprisonment once it has been imposed.” Cortorreal v. United States, 486 F.3d 742, 744 (2d Cir. 2007); see United States v. Williams, 551 F.3d 182, 185 (2d Cir. 2009) (“Congress has authorized courts to modify a term of imprisonment only in limited circumstances.”). Although Petitioner does not identify the statutory basis for her motion, I construe it as a motion under 18 U.S.C. § 3582. That section provides that a court may modify a previously-imposed sentence for “extraordinary and compelling reasons” only “upon motion of the Director of the Bureau of Prisons,” and provided that such reduction is consistent with Sentencing Commission’s policy statements. Id. § 3582(c)(1). A court may also modify a sentence if it is proper to do so under Rule 35 of the Federal Rules of Criminal Procedure.<sup>1</sup> Id. § 3582(c)(1)(B).

Neither § 3582(c)(1) nor Rule 35 applies here. The Director of the Bureau of Prisons has not moved on Lopez’s behalf, and more than a year has passed between Lopez’s sentencing and this application for a downward departure.

Accordingly, I lack authority to reduce the sentence imposed. I retain jurisdiction over Lopez’s habeas petition, and a decision will issue after the petition is fully briefed.

SO ORDERED.

Dated: August 2, 2010  
New York, New York

  
ALVIN K. HELLERSTEIN  
United States District Judge

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<sup>1</sup> Rule 35 provides, in relevant part, that “[w]ithin 14 days after sentencing, the court may correct a sentence that resulted from arithmetical, technical, or other clear error.”